

Public Chapter 296

SENATE BILL NO. 291

By Harper

Substituted for: House Bill No. 412

By Bowers, Ulysses Jones, Miller, Cooper, Brooks

AN ACT To enact the Tennessee Pregnancy HIV Screening Act of 1997.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the "Tennessee HIV Pregnancy Screening Act of 1997".

SECTION 2. The purpose of this act is to require all providers of health care services who assume responsibility for the prenatal care of pregnant women during gestation to counsel pregnant women regarding HIV infections and, except in cases where women refuse testing, to test these women for human immunodeficiency virus (HIV) and to provide counseling for those women who test positive.

SECTION 3. (a) A provider of health care services who assumes responsibility for the prenatal care of a pregnant woman during gestation shall counsel each pregnant woman in his or her care, as early as possible in the course of the pregnancy, with written material or videos that explain and provide information on:

- (1) The nature of the human immunodeficiency virus (HIV);
- (2) The methods by which HIV infection can be transmitted;
- (3) The medical treatment available to treat HIV infection if diagnosed early;
- (4) The reduced rate of transmission of HIV to a fetus if an HIV-infected pregnant woman receives treatment for the HIV infection;
- (5) The advantages of being tested for HIV infection as early as possible in the course of the pregnancy;
- (6) The reliability of tests for HIV infection; and
- (7) The confidentiality of test results and the woman's right to refuse HIV testing;

(b) The Department of Health shall make available educational and counseling materials required under subsection (a) to providers responsible for the counseling.

(c) After she has received the counseling and information specified in subsection (a), a pregnant woman under the care of a health care provider shall sign a form developed by the Department of Health indicating that she has been informed and indicating her consent or refusal to the HIV testing.

(d) A health care provider shall arrange for each pregnant woman under his or her care to be tested for HIV as early as possible in the course of the pregnancy, unless the woman has refused testing in writing on the form described in subsection (c).

(e) A pregnant woman who presents herself for delivery and who has not been tested for HIV during the course of the pregnancy shall be given the counseling and information specified in subsection (a) as soon as may be medically appropriate and, unless she refuses in writing after receiving that counseling and information, shall be tested for HIV as soon as may be medically appropriate.

(f) All HIV testing performed under this act shall be done in a confidential manner and the results of the testing may be disclosed only as provided by law.

(g) After receiving a positive HIV test result from a testing laboratory, the health care provider shall arrange for a counselor to be present when the health care provider discloses the positive test result to the woman tested under this act. The counselor shall:

(1) Explain the meaning and reliability of the test results and the availability of additional or confirmatory testing, if appropriate;

(2) Counsel the woman to obtain appropriate medical treatment for herself and her baby and inform her of the increased risks to her baby if she fails to obtain appropriate treatment;

(3) Make available information concerning the available medical interventions to prevent onset of illness in the mother and to prevent transmission of HIV to her children; and

(4) Arrange for additional counseling in order to assist the woman in obtaining access to a comprehensive clinical care facility that can meet her needs.

SECTION 4. (a) Each health care provider having a pregnant woman under his or her care pursuant to this act shall report any positive HIV tests to the Tennessee Department of Health in accordance with current laws and regulations.

(b) The Department of Health shall make available educational and counseling materials required under subsection (a) to providers responsible for the counseling.

SECTION 5. The Department of Health may promulgate rules in accordance with Tennessee Code Annotated, Title 4, Chapter 5, to implement the provisions of this act.

SECTION 6. For the purpose of promulgating rules, the provisions of this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 1998, the public welfare requiring it.